

AMENDED IN ASSEMBLY JUNE 19, 2008

SENATE BILL

No. 28

Introduced by Senator Simitian

December 4, 2006

~~An act to add and repeal Section 1672.7 of the Vehicle Code, relating to the Department of Motor Vehicles. An act to amend Section 23123 of the Vehicle Code, relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 28, as amended, Simitian. ~~Department of Motor Vehicles: personal information.~~ *Motor vehicles: mobile service device.*

(1) Under existing law, on and after July 1, 2008, it will be an infraction for any person to drive a motor vehicle while using a wireless telephone, unless that telephone is designed and configured to allow hands-free listening and talking operation, and is used in that manner while driving, except as otherwise provided. A violation point is not given for a violation. A violation is punishable by a base fine of \$20 for a first offense and \$50 for each subsequent offense.

This bill would also prohibit the use of a mobile service device, as defined, and would add other, specified exceptions to these provisions. By creating a new infraction, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Existing law requires the Department of Motor Vehicles, upon proper application, to issue an original driver's license or identification card, or a renewal, duplicate, or replacement driver's license or identification card.

This bill would prohibit the department from issuing, renewing, duplicating, or replacing a driver's license or identification card, if the license or card uses radio waves to either transmit personal information remotely or to enable personal information to be read from the license or card remotely.

This bill would provide that its provisions shall remain in effect only until January 1, 2011, and as of that date would be repealed.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23123 of the Vehicle Code, as amended
2 by Section 2 of Chapter 214 of the Statutes of 2007, is amended
3 to read:

4 23123. (a) A person shall not drive a motor vehicle while using
5 a *mobile service device* or a wireless telephone unless that
6 telephone is specifically designed and configured to allow
7 hands-free listening and talking, and is used in that manner while
8 driving. As used in this section, "*mobile service device*" includes,
9 but is not limited to, a broadband personal communication device,
10 a specialized mobile radio device, a handheld device or laptop
11 computer with mobile data access, a pager, or a two-way
12 messaging device.

13 (b) A violation of this section is an infraction punishable by a
14 base fine of twenty dollars (\$20) for a first offense and fifty dollars
15 (\$50) for each subsequent offense.

16 (c) This section does not apply to a person using a wireless
17 telephone for emergency purposes, including, but not limited to,
18 an emergency call to a law enforcement agency, health care
19 provider, fire department, or other emergency services agency or
20 entity.

21 (d) This section does not apply to an emergency services
22 professional using a wireless telephone while operating an
23 authorized emergency vehicle, as defined in Section 165, in the
24 course and scope of his or her duties.

(e) This section does not apply to a person when using a digital two-way radio that utilizes a wireless telephone that operates by depressing a push-to-talk feature and does not require immediate proximity to the ear of the user, and the person is driving one of the following vehicles:

(1) (A) A motor truck, as defined in Section 410, or a truck tractor, as defined in Section 655, that requires either a commercial class A or class B driver's license to operate.

(B) The exemption under subparagraph (A) does not apply to a person driving a pickup truck, as defined in Section 471.

(2) An implement of husbandry that is listed or described in Chapter 1 (commencing with Section 36000) of Division 16.

(3) A farm vehicle that is exempt from registration and displays an identification plate as specified in Section 5014 and is listed in Section 36101.

(4) A commercial vehicle, as defined in Section 260, that is registered to a farmer and driven by the farmer or an employee of the farmer, and is used in conducting commercial agricultural operations, including, but not limited to, transporting agricultural products, farm machinery, or farm supplies to, or from, a farm.

(5) A tow truck, as defined in Section 615.

(f) This section does not apply to a person driving a schoolbus or transit vehicle that is subject to Section 23125.

(g) This section does not apply to a person while driving a motor vehicle on private property.

(h) This section does not apply to the equipment specified in subdivision (b) of Section 27602 when installed in a vehicle.

~~(h)~~

(i) This section shall become operative on July 1, 2008, and shall remain in effect only until July 1, 2011, and, as of July 1, 2011, is repealed.

SEC. 2. Section 23123 of the Vehicle Code, as amended by Section 3 of Chapter 214 of the Statutes of 2007, is amended to read:

23123. (a) A person shall not drive a motor vehicle while using a *mobile service device or a* wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving. *As used in this section, "mobile service device" includes, but is not limited to, a broadband personal communication device,*

1 *a specialized mobile radio device, a handheld device or laptop*
2 *computer with mobile data access, a pager, or a two-way*
3 *messaging device.*

4 (b) A violation of this section is an infraction punishable by a
5 base fine of twenty dollars (\$20) for a first offense and fifty dollars
6 (\$50) for each subsequent offense.

7 (c) This section does not apply to a person using a wireless
8 telephone for emergency purposes, including, but not limited to,
9 an emergency call to a law enforcement agency, health care
10 provider, fire department, or other emergency services agency or
11 entity.

12 (d) This section does not apply to an emergency services
13 professional using a wireless telephone while operating an
14 authorized emergency vehicle, as defined in Section 165, in the
15 course and scope of his or her duties.

16 (e) This section does not apply to a person driving a schoolbus
17 or transit vehicle that is subject to Section 23125.

18 (f) This section does not apply to a person while driving a motor
19 vehicle on private property.

20 (g) *This section does not apply to the equipment specified in*
21 *subdivision (b) of Section 27602 when installed in a vehicle.*

22 ~~(g)~~

23 (h) This section shall become operative on July 1, 2011.

24 SEC. 3. *No reimbursement is required by this act pursuant to*
25 *Section 6 of Article XIII B of the California Constitution because*
26 *the only costs that may be incurred by a local agency or school*
27 *district will be incurred because this act creates a new crime or*
28 *infraction, eliminates a crime or infraction, or changes the penalty*
29 *for a crime or infraction, within the meaning of Section 17556 of*
30 *the Government Code, or changes the definition of a crime within*
31 *the meaning of Section 6 of Article XIII B of the California*
32 *Constitution.*

33 SECTION 1. ~~Section 1672.7 is added to the Vehicle Code, to~~
34 ~~read:~~

35 ~~1672.7. 1672.7. (a) The department shall not issue an original~~
36 ~~driver's license, issue an original identification card pursuant to~~
37 ~~Section 13000, or issue a renewal, duplicate, or replacement~~
38 ~~driver's license or identification card, if the license or card uses~~
39 ~~radio waves either to transmit personal information remotely or~~

1 to enable personal information to be read from the license or card
2 remotely.

3 (b) For purposes of this section, the following definitions apply:

4 (1) “Personal information” includes, but is not limited to, an
5 individual’s name, address, telephone number, e-mail address,
6 date of birth, religion, ethnicity, photograph, fingerprint or other
7 biometric identification, driver’s license number, California
8 Identification Card number, social security account number, or
9 other unique identifier.

10 (2) “Reader” means a scanning device that is capable of using
11 radio waves to communicate with a driver’s license or identification
12 card and read the personal information broadcast or transmitted
13 by that license or card.

14 (3) “Remotely” means that physical contact between the driver’s
15 license or identification card and a reader is not necessary in order
16 to transmit personal information.

17 (e) This section shall remain in effect only until January 1, 2011,
18 and as of that date is repealed, unless a later enacted statute, that
19 is enacted before January 1, 2011, deletes or extends that date.